

**IN THE UNITED STATES DISTRICT COURT
FOR THE MIDDLE DISTRICT OF PENNSYLVANIA**

**IRIS JEANNETTE RODRIGUEZ
TORRES,**

Plaintiff

v.

**CAROLYN W. COLVIN, Acting
Commissioner of Social Security,**

Defendant.

CIVIL ACTION NO. 3:12-CV-0998

(Chief Judge Conner)

ORDER

AND NOW, this 21st day of August, 2014, upon consideration of the report (Doc. 13) of Magistrate Judge Gerald B. Cohn, recommending the court dismiss the appeal (Doc. 1) of plaintiff Iris Jeannette Rodriguez Torres (“Torres”) from the decision of the administrative law judge (“ALJ”) denying Torres’s claim for supplemental security income, wherein Judge Cohn finds the ALJ’s decision to be supported by substantial evidence, and, after an independent review of the record, the court in full agreement with Judge Cohn that the ALJ’s decision is supported by substantial evidence, see 42 U.S.C. § 405(g) (“The findings of the [Commissioner] as to any fact, if supported by substantial evidence, shall be conclusive.”); see also Fagnoli v. Massanari, 247 F.3d 34, 38 (3d Cir. 2001) (“Where . . . findings of fact are supported by substantial evidence, [the district court is] bound by those findings, even if [the court] would have decided the factual inquiry differently.”), and it appearing that neither Torres nor the Commissioner

of Social Security¹ (“Commissioner”) have objected to the report, and that there is no clear error on the face of the record,² see Nara v. Frank, 488 F.3d 187, 194 (3d Cir. 2007) (explaining that “failing to timely object to [a report and recommendation] in a civil

¹ Michael J. Astrue’s term as Commissioner of Social Security expired on January 19, 2013. Pursuant to Federal Rule of Civil Procedure 25(d), Carolyn W. Colvin, who succeeded Astrue and was appointed Acting Commissioner of Social Security on February 14, 2013, is substituted as defendant in this action. See FED. R. CIV. P. 25(d) (“An action does not abate when a public officer who is a party in an official capacity dies, resigns, or otherwise ceases to hold office while the action is pending. The officer’s successor is automatically substituted as a party.”).

² When parties fail to file timely objections to a magistrate judge’s report and recommendation, the Federal Magistrates Act does not require a district court to review the report before accepting it. Thomas v. Arn, 474 U.S. 140, 149 (1985). As a matter of good practice, however, the Third Circuit expects courts to “afford some level of review to dispositive legal issues raised by the report.” Henderson v. Carlson, 812 F.2d 874, 878 (3d Cir. 1987). The advisory committee notes to Rule 72(b) of the Federal Rules of Civil Procedure indicate that “[w]hen no timely objection is filed, the court need only satisfy itself that there is no clear error on the face of the record in order to accept the recommendation.” FED. R. CIV. P. 72(b), advisory committee notes; see also Henderson, 812 F.2d at 878-79 (stating that “the failure of a party to object to a magistrate’s legal conclusions may result in the loss of the right to de novo review in the district court”); Tice v. Wilson, 425 F. Supp. 2d 676, 680 (W.D. Pa. 2006) (holding that the court’s review is conducted under the “plain error” standard); Cruz v. Chater, 990 F. Supp. 375-78 (M.D. Pa. 1998) (holding that the court’s review is limited to ascertaining whether there is “clear error on the face of the record”); Oldrati v. Apfel, 33 F. Supp. 2d 397, 399 (E.D. Pa. 1998) (holding that the court will review the report and recommendation for “clear error”). The court reviews the magistrate judge’s report in accordance with this Third Circuit directive.

proceeding may result in forfeiture of *de novo* review at the district court level”), it is hereby ORDERED that:

1. The report (Doc. 13) of Magistrate Judge Cohn is ADOPTED in its entirety.
2. The decision of the Commissioner denying Iris Jeannette Rodriguez Torres’s application for supplemental security income is AFFIRMED.
3. The Clerk of Court shall enter JUDGMENT in favor of the Commissioner and against Iris Jeannette Rodriguez Torres as set forth in Paragraph 2.
4. The Clerk of Court is directed to CLOSE this case.

/S/ CHRISTOPHER C. CONNER
Christopher C. Conner, Chief Judge
United States District Court
Middle District of Pennsylvania